

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Brian Dalton; New England Firearms Academy, Inc.; John Troisi; Big Jack’s Auto Service and Towing, on behalf of themselves and a class of similarly situated persons,

Plaintiffs,

v.

Yvonne Hao, in her official capacity as Secretary of the Executive Office of Economic Development; Massachusetts Growth Capital Corporation; and Lawrence D. Andrew, in his official capacity as President and CEO of Massachusetts Growth Capital Corporation,

Defendants.

No. 1:23-cv-11216-WGY

JOINT STIPULATION AND MOTION TO STAY PROCEEDINGS

Plaintiffs Brian Dalton, New England Firearms Academy, Inc., John Troisi, and Big Jack’s Auto Service and Towing (“Plaintiffs”); and Defendants Yvonne Hao, Massachusetts Growth Capital Corporation (“MGCC”), and Lawrence D. Andrews (“Defendants”) submit this joint stipulation and motion to stay proceedings in the above-captioned case for 60 days. In support of their motion, the Parties state:

1. On May 31, 2023, Plaintiffs Brian Dalton and New England Firearms Academy, Inc. filed a complaint (a) alleging that the Inclusive Recovery Grant Program, a grant program administered by the Commonwealth and MGCC, violates the Equal Protection Clause of the Fourteenth Amendment and (b) seeking permanent injunctive relief. Dkt. 1. On June 2, 2023, Plaintiffs filed an amended complaint (a) adding two additional plaintiffs, John Troisi and Big

Jack's Auto Service and Towing, and (b) seeking the same relief. Dkt. 5 ("First Amended Complaint").

2. On June 7, 2023, Plaintiffs filed a Motion for Class Certification (Dkt. 13), and on June 8, 2023, the Court set a hearing on the Motion for Class Certification for July 12, 2023 (Dkt. 14).

3. On June 8, 2023, Plaintiffs filed an Emergency Motion for a Temporary Restraining Order and Preliminary Injunction seeking to enjoin Defendants from releasing funding decisions and paying out grants from the Inclusive Recovery Grant Program. Dkt. 15.

4. On June 9, 2023, counsel for Plaintiffs, counsel for Defendant Secretary Hao, and counsel for Defendants MGCC and Mr. Andrews conferred by telephone. During that telephone conference, counsel for Defendants informed counsel for Plaintiffs that funding decisions from the Inclusive Recovery Grant Program are not imminent as alleged in the Motion for Temporary Restraining Order, and in fact are not expected to be made imminently, due to ongoing operational processes (*i.e.*, without regard to the allegations in the lawsuit), and that payment of grants could not be made until funding recommendations are reviewed with the Executive Office of Economic Development and the Governor's office. Counsel for Secretary Hao also notified counsel for Plaintiffs that the Executive Office of Economic Development intends to conduct a review of the criteria for applying for and/or receiving a grant under the Inclusive Recovery Grant Program before it authorizes MGCC to release any funding decisions. Counsel for Secretary Hao expects this review will also take several weeks.

5. In light of the circumstances set forth above in Paragraph 4, Defendants do not intend to release funding decisions or disburse funds from the grant program until September 1, 2023, at the earliest.

6. The Parties therefore jointly request a stay of proceedings for 60 days, as described below:

- a. Defendants will not release funding decisions or pay out grants from the Inclusive Recovery Grant Program during the stay;
- b. Plaintiffs will withdraw their Motion for Class Certification (Dkt. 13) and Motion for Temporary Restraining Order and Preliminary Injunction (Dkt. 15), without prejudice to refile if the stay is lifted;
- c. If Defendants intend to release funding decisions and disburse grant funds from the Inclusive Recovery Grant Program at the end of the stay period, they will notify Plaintiffs at least 21 days in advance of releasing any funding decisions and notify Plaintiffs of the eligibility criteria for the Program, at a similar level of detail as identified in Exhibit A to the First Amended Complaint;
- d. Defendants will not be required to answer or otherwise respond to the amended complaint for at least 21 days after the stay is lifted; and
- e. Defendants will not disburse grant funds from the Inclusive Recovery Grant Program until after the Court decides a motion for Temporary Restraining Order and Preliminary Injunction if Plaintiffs re-file one.

WHEREFORE, the Parties respectfully request that the Court stay proceedings in this action for a period of 60 days, as described above.

Dated: June 16, 2023

BRIAN DALTON; NEW ENGLAND
FIREARMS ACADEMY, INC.; JOHN
TROISI; BIG JACK'S AUTO SERVICE
AND TOWING

By their attorneys,

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I hereby certify that counsel for the parties listed above have conferred regarding this motion in accordance with D. Mass. Local Rule 7.1(a)(2). After conferring in good faith, the parties agreed to file this motion jointly, by agreement.

/s/ Timothy J. Casey

Timothy J. Casey
Assistant Attorney General

CERTIFICATE OF SERVICE

I certify that this document, filed through the Court's ECF system, will be sent electronically to registered participants as identified on the Notice of Electronic Filing (NEF) and that copies will be sent to those indicated as non-registered participants by e-mail on June 16, 2022.

/s/ Timothy J. Casey
Timothy J. Casey
Assistant Attorney General